

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 RAYNE DEE WELLS JR,

10 Plaintiff,

11 v.

12 STEVEN DEMARS,

13 Defendant.

CASE NO. C11-5759 BHS-JRC

ORDER STAYING THE ACTION  
AND DIRECTING PLAINTIFF TO  
SHOW CAUSE

14 The district court has referred this 42 U.S.C. §1983 civil rights matter to the undersigned  
15 Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b)(1)(A) and (B) and Local Magistrate Judge  
16 Rules MJR 1, MJR 3, and MJR 4. Defendant asks that the Court stay the scheduling order in this  
17 case to avoid any prejudice to the parties (ECF No. 26). Defendant explains that plaintiff has  
18 been transferred out from the state's prison system to state court and that plaintiff was at  
19 different county jails in Spokane and Skagit County (ECF No. 26).

20 Apparently, plaintiff has been out of the state system since April of this year. Mail that  
21 the Court sent to plaintiff on April 18, 2012, was returned as undeliverable on April 27, 2012  
22 (ECF No. 25).

23 Defendant states that there is outstanding discovery that predates the May 4, 2012,  
24 discovery cutoff date (ECF No. 26). Counsel informs the Court that attempts to contact plaintiff

1 and set up a telephonic conference regarding discovery were not successful while plaintiff was at  
2 the county jails.

3 On June 20, 2012, plaintiff notified the Court that he had been returned to the custody of  
4 the Department of Corrections and requested that all pleadings from April 18, 2012 to the present  
5 be re-sent to him (ECF No. 27). However, pleadings the Court sent to plaintiff on June 20, 2012,  
6 have been returned as undeliverable (ECF No. 28). Thus, the Court has not been able to mail  
7 anything to plaintiff from April 28, 2012 to June 26, 2012 – over 60 days.

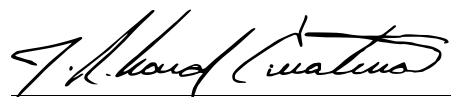
8 Local Rule 41 (2) states:

9 A party proceeding pro se shall keep the court and opposing parties advised as to  
10 his current address. If mail directed to a pro se plaintiff by the clerk is returned by  
11 the Post Office, and if such plaintiff fails to notify the court and opposing parties  
within 60 days thereafter of his current address, the court may dismiss the action  
without prejudice for failure to prosecute.

12 Plaintiff is in violation of that rule as of June 26, 2012. This action is stayed. Plaintiff has  
13 until August 3, 2012, to inform the Court of a current address and to show cause why plaintiff  
14 should not be sanctioned for failing to keep the Court advised of a current address. After  
15 receiving a current address and response to this Order, the Court will decide what sanction, if  
16 any, is appropriate and set a new dispositive motion and joint status report deadline.

17 Any motion the parties have regarding discovery may be submitted after August 3, 2012.  
18 Discovery is closed and no new discovery may be propounded by either side. If plaintiff does not  
19 respond to this Order on or before August 3, 2012, the Court will recommend that this action be  
20 dismissed for failure to prosecute and for failure to comply with a court order.

21 Dated this 29th day of June, 2012.

22 

23 J. Richard Creatura  
24 United States Magistrate Judge